

REMARKS/ARGUMENTS

In response to the Office Action mailed February 4, 2010, Applicants amend their application and request reconsideration in view of the amendments and the following remarks. In this amendment, Claim 1 is amended, no claims have been added, Claims 8 -12 are cancelled without prejudice and Claims 18 and 20-34 have been previously withdrawn from consideration so that Claims 1, 18 and 20-34 are currently pending. No new matter has been introduced.

Claims 1 and 8-12 were rejected as being unpatentable over U.S. Patent No. 5,904,697 to Gifford, III et al. (Gifford) in view of U.S. Patent No. 5,624,411 to Tuch (Tuch). This rejection is respectfully traversed.

In order to make a finding of obviousness, an Examiner must (1) determine the scope and content of the prior art, including non-analogous art if it is in the field of endeavor reasonably related to the particular problem to which the claimed invention is directed, (2) ascertain the differences between the claimed invention and the prior art, considering both the prior art and claimed invention as a whole, and (3) resolve the level of ordinary skill in the art at the time of the invention, factoring in the creativity that one of ordinary skill in the art would employ as well as the Examiner's own knowledge and technical expertise.

It is respectfully submitted that the references taken as a whole fail to disclose or suggest all of the claimed limitations.

Gifford does in fact teach an anastomosis device. Tuch discloses a stent that may be coated with polymers and drugs. However, neither of the references, whether taken alone or in combination, discloses or even suggests the device of amended independent claim 1. In determining whether an invention is obvious over a combination of references, the question that is raised is whether the prior art made the invention as a whole obvious in light thereof. One of ordinary skill in the art would not

have been taught to utilize the specific copolymers, the percentage ratios, and rapamycin as a coating on the anastomosis device as claimed. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

A favorable Action on the merits is earnestly solicited.

Respectfully submitted,

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